

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA**

LAWERANCE MAYES,)	
)	
Petitioner,)	
)	
v.)	Case No. CIV-23-00822-PRW
)	
STATE OF OKLAHOMA,)	
)	
Respondent.)	

ORDER

This matter is before the Court on United States Magistrate Judge Suzanne Mitchell's Report and Recommendation (Dkt. 7). The Court observes that no party has objected to the Report and Recommendation within the time limits prescribed. The Court has also reviewed Magistrate Judge Mitchell's Report and Recommendation (Dkt. 7) *de novo* and agrees with the reasoning and conclusions therein. Therefore, the Court adopts the Report and Recommendation in its entirety and declines to transfer this matter to the United States Court of Appeals for the Tenth Circuit as an alternative to dismissal.

Accordingly, the Court **ADOPTS** Magistrate Judge Mitchell's Report and Recommendation (Dkt. 7) and **DISMISSES WITHOUT PREJUDICE** the petition for lack of jurisdiction as a second or successive habeas petition without authorization from the Tenth Circuit. The Court additionally **DENIES** a certificate of appealability for this

ruling and **DENIES AS MOOT** Petitioner's Motion for Leave to Proceed *In Forma Pauperis* (Dkt. 3).¹

IT IS SO ORDERED this 21st day of December 2023.

A handwritten signature in black ink, appearing to read 'P. Wyrick', is positioned above a horizontal line.

PATRICK R. WYRICK
UNITED STATES DISTRICT JUDGE

¹ Pursuant to Rule 11(a) of the Rules Governing Section 2254 Cases, the Court must issue or deny a certificate of appealability when it enters a final order adverse to a habeas petitioner. A certificate of appealability may issue only if the petitioner “has made a substantial showing of the denial of a constitutional right.” 28 U.S.C. § 2253(c)(2). A petitioner “satisfies this standard by demonstrating that jurists of reason could disagree with the district court’s resolution of his constitutional claims or that jurists could conclude the issues presented are adequate to deserve encouragement to proceed further.” *Miller-El v. Cockrell*, 537 U.S. 322, 327 (2003). Upon consideration, the Court finds that a certificate of appealability should not issue.